case the restriction appeared in the defendant's deed and the question of notice was not raised, but the point was confined to whether the restriction was inserted for the benefit of the plaintiff's lots. Such an intention may appear from the nature of the restriction or from the situation of the property and the surrounding circumstances. *Peck* v. *Conway,* 119 Mass. 546; *Peabody Heights Co.* v. *Wilson,* 82 Md. 186; *Coughlin* v. *Barker,* 46 Mo. App. 54; *Muzzarelli* v. *Hulzhizer,* 163 Pa. St. 643. Such an intention will be presumed if it appears that the lots were laid out to be sold under a general building scheme with the grantor retaining none of the land. *Nottingham Pat. Brick & Tile Co.* v. *Butler,* 16 Q. B. Div. 778; *Parker* v. *Nightingale,* 6 Allen (Mass.) 341; *Spicer* v. *Martin,* 14 App. Cas. 12; *Sharp* v. *Ropes,* supra. In the instant case the court found that there was no general plan or building scheme. The principal case is not the ordinary situation where the owner of a tract of land sells part of it subject to restrictions and the purchaser of the part retained seeks to enforce the restriction, but the land sold subject to the covenants has been divided and sold to different purchasers, some of whom now seek to enforce the restrictions against another *Winfield* v. *Henning,* 21 N. J. Eq. 188, seems to be the only case allowing the plaintiff to enforce restrictions on such a state of facts. It has been declared to be bad law (*Dana* v. *Wentworth,* 111 Mass. 291), and is probably wrong. According to the weight of authority, there is no cause of action in such a situation. *Dana* v. *Wentworth,* supra; *Jewell* v. *Lee,* 14 Allen (Mass.) 145; *Korn* v. *Campbell,* 192 N. Y. 490; *Graham* v. *Hite,* 93 Ky. 474; *Wille* v. *St. John,* L. R. [1910] 1 Chan. 84.

DIVORCE.—ATTACHMENT OF PERSON FOR COSTS AND ATTORNEY'S FEES.—Suit for divorce by husband against wife was dismissed with counsel fee and costs, and defendant moves to attach petitioner for non-payment. *Held,* counsel fee and costs allowed in a final decree may be enforced by a process of attachment for contempt. *Letts* v. *Letts,* (N. J. Eq. 1916), 96 Atl. 887.

The practice of requiring the husband to provide his wife with means to defend a divorce suit and to support her while it is pending, had its origin in the principle that, at common law, the husband having, by the marriage contract, the control of the wife's property, she was destitute of means for her own protection. The general rule has been modified by state statutes giving to married women property rights, but the quality of the duty upon which it arose is undiminished. *Marker* v. *Marker,* 11 N. J. Eq. 256. This allowance may be enforced by attachment for contempt, or execution, or, when the husband is plaintiff, the court can make the payment a condition to the further prosecution of the suit. *Waters* v. *Waters,* 49 Mo. 385; *Ormsby* v. *Ormsby,* 1 Phila (Pa.) 578. This allowance is in the nature of alimony, and the means open to enforce alimony are available to enforce the order for costs and expenses. "The grounds for these allowances are, indeed, indistinguishable, whether made for support solely or to carry on or defend the suit. Both are equally within the discretion of the chancellor, and subject to his sole power of enforce-

ment." BIDDLE, DIVORCE, 170. In Kentucky the court held that the attorney's fees and other costs ordered to be paid, in divorce proceedings, made abortive by the wife's death, could be enforced in a summary way by attachment and imprisonment. *Ballard* v. *Caperton*, 59 Ky. 412. In New York it is held that the costs of an action for divorce cannot be collected by proceedings to punish for contempt. *Jacquin* v. *Jacquin*, 36 Hun. (N. Y.) 378; *Weil* v. *Weil*, 10 N. Y. Supp. 627; *Branth* v. *Branth*, 13 N. Y. Supp. 360. These cases are all based upon the Civil Code of Procedure of that state, and they appear to be in conflict with the case of *Park* v. *Park*, 80 N. Y. 156, affirming *Park* v. *Park*, 18 Hun. (N. Y.) 466, wherein it is said that the claim that the attachment should be vacated, because it was based upon the refusal of the defendant to pay the costs of the suit, is sufficiently answered by the fact that it was issued for disobedience of the order of the court. In many of the states statutes have been passed permitting the court to enforce the payment of its decrees for alimony, counsel's fees, and costs, by orders and executions, and proceedings as in case of contempt. See *Staples* v. *Staples*, 87 Wis. 592, and note thereto in 24 L. R. A. 433, 439, collecting the statutes and decisions thereunder.

EXECUTORS AND ADMINISTRATORS.—RIGHT OF SET-OFF.—In an action by the administrators of the insolvent estate of the deceased against a bank for the amount of money which the deceased had on deposit to his credit, *Held*: That the bank could set off against this claim the amount of a note of the deceased held by it, although the note had not yet matured. *Conquest* v. *Broadway National Bank* (Tenn. 1916), 183 S. W. 160.

SHANNON'S CODE, § 4137, provides that in cases similar to the principal case, the defendant might plead a set-off of whatever amount is due him from the deceased, in an action by the administrator. But at the time this action was brought there was no amount due from the deceased to the bank. A strict construction of the statute would, therefore, lead to a different result from that reached in the principal case. It is true that the deceased was admittedly insolvent. Now a bank may set off against a deposit the unmatured debts of an insolvent depositor, through an application of the doctrine of equitable set-off. *Nashville Trust Co.* v. *Fourth National Bank*, 91 Tenn. 350, 18 S. W. 822, 15 L. R. A. 710; *Ex parte Howard National Bank*, 16 Nat. Bankr. Reg. 420. This right of the bank has been allowed where it was sued by an assignee for the benefit of creditors when it appeared that the assignor was insolvent. *Fidelity Trust & Safety Vault Co.* v. *The Merchants National Bank*, 90 Ky. 225, 13 S. W. 910, 9 L. R. A. 108; *Demmon* v. *Boylston Bank*, 5 Cush. 194; *New York County National Bank* v. *Massey*, 192 U. S. 138, 24 Sup. Ct. 199, 48 L. Ed. 380: *Contra, Chipman* v. *Ninth National Bank*, 120 Pa. 86, 13 Atl. 707. The right of the bank has been allowed where the bank has been summoned as a garnishee. *Schuler* v. *Israel*, 120 U. S. 506, 7 Sup. Ct. 648, 30 L. Ed. 707: *Contra, The Manufacturers' National Bank* v. *Jones* (Pa.), 2 Penny. 377. Should this right of equitable set-off be extended and allowed in a suit by the administrator of the insolvent depositor, in respect to unmatured